

TOD ANDERSON

IBLA 80-654

Decided September 17, 1980

Appeal from a decision of the California State Office, Bureau of Land Management, declaring appellant's placer and lode mining claims abandoned and void. MCA MC 67665-67669.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment--Mining Claims: Location--Mining Claims: Recordation

Under 43 CFR 3833.1-2(b), the owner of an unpatented mining claim, millsite, or tunnel site located after Oct. 21, 1976, on Federal land shall file within 90 days after the date of location of that claim in the proper BLM office a copy of the official record of the notice or certificate of location of the claim or site.

2. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment--Mining Claims: Location--Mining Claims: Recordation

The failure to file an instrument required by secs. 3833.1 and 3833.2 of this title within the time period prescribed therein shall be deemed conclusively to constitute an abandonment of the mining claim, millsite or tunnel site and it shall be void.

3. Notice: Generally--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: Tod Anderson, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Tod Anderson has appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated April 14, 1980, which declared appellant's mining claims abandoned and void. ^{1/}

The claims in question were located on November 14, 1979. BLM received a copy of the notices of location on April 7, 1980. After receiving the documents, BLM declared the claims void, rejected the filing, and returned the documents to appellant. Appellant filed a timely appeal.

[1] Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), requires the owner of an unpatented lode or placer mining claim located after October 21, 1976, to file a copy of the official record of the notice of location in the BLM office designated by the Secretary of the Interior within 90 days after the date of the location. It also provides that failure to timely file such record shall be deemed conclusively to constitute an abandonment of the mining claim by the owner and renders the claim void. Faith C. Hartman, 44 IBLA 310 (1979).

The pertinent regulation, 43 CFR 3833.1-2(b), provides as follows:

The owner of an unpatented mining claim, mill site, or tunnel site located after October 21, 1976, on Federal land shall file (file shall mean being received and date stamped by the proper BLM office), within 90 days after the date of location of that claim in the proper BLM office a copy of the official record of the notice or certificate of location * * *.

[2] The applicable regulation, 43 CFR 3833.4(a), provides: "(a) The failure to file an instrument required by §§ 3833.1-2 (a), (b), and 3833.2-1 of this title within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claim, mill or tunnel site and it shall be void."

Where the owner of an unpatented mining claim located after October 22, 1976, fails to file a location notice with BLM within 90 days after the date of location, his claim is properly deemed conclusively to be abandoned and to be null and void. Beryl Rhodes, 46 IBLA 287 (1980).

[3] Appellant alleged in his statement of reasons that he was not aware of his responsibilities concerning the mining claims due to a

^{1/} Appellant's mining claims are the TWA I, II, III, Shotgun Hollow, and Buffalo Run Spring TWA.

lack of "readily available information." He did not deny that he failed to timely submit the required information. The Board has decided in numerous cases that the statute permits no exception to the requirement of timely filing of the notice of location with BLM. See Northwest Citizens for Wilderness Mining Co., Inc., 33 IBLA 317 (1978), aff'd, Northwest Citizens for Wilderness Mining v. Bureau of Land Management, Civil No. 78-46-M (D. Mont. June 19, 1979). All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations. Fred S. Ghelarducci, 41 IBLA 277 (1979); John A. Steele, Jr., 41 IBLA 49 (1979); Juan Munoz, 40 IBLA 74 (1979).

We note in closing appellant may relocate these claims and file notice of this as provided in 43 CFR 3833.1 subject to any intervening rights of third parties, and assuming no intervening closure of the land to mining location.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Douglas E. Henriques
Administrative Judge

